

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

99-E-0410

In the Matter of the Liquidation of  
Tufts Health Plan of New England, Inc.

**ORDER OF LIQUIDATION**

After having heard and considered the facts set forth in the Rehabilitator's Verified Petition for Liquidation and the accompanying Affidavit of the Special Deputy Rehabilitator, the Court finds that the law and facts are as the Rehabilitator has alleged in such Verified Petition and that it is necessary that this order be entered.

WHEREFORE, it is hereby ordered as follows:

1. Sufficient cause exists for the liquidation of Tufts Health Plan of New England, Inc. ("TNE"), in that:
  - (a) TNE is "insolvent" within the meaning of RSA 402-C:3 XIV, and is in such condition that its further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors, or to the public, within the meaning of RSA 402-C:20 II and IV;
  - (b) Despite the efforts by the Special Deputy Rehabilitator and the staff of the Insurance Department to correct TNE's financially impaired condition, or to arrange a sale of TNE or reinsure its liabilities in bulk, no such transaction can presently be arranged on terms that would form the basis of a feasible plan of rehabilitation; and
  - (c) Continuation of the present rehabilitation under these circumstances would only extend and deepen TNE's surplus deficiency to the detriment of its subscribers, providers and other creditors.
2. Paula T. Rogers and her successors in office are hereby appointed as Liquidator of TNE, effective on January 3, 2000, with all of the powers specified in 402-C:25 I through XXII to the same extent as if fully set forth herein. The Liquidator shall forthwith continue to take possession of the assets of TNE and to administer them under the orders of this Court, and the title of this matter shall henceforth be "In the Matter of the Liquidation of Tufts Health Plan New England, Inc.";
3. Pursuant to RSA 402-C:28, all actions and proceedings in the State of New Hampshire against TNE shall be abated, except upon further order of this Court, and the Liquidator is hereby authorized to intervene in any action or proceeding against or relating

to TNE outside of the State of New Hampshire, in any forum, whenever in the Liquidator's judgment such intervention is necessary to protect TNE's estate;

4. Coverage according to the terms and conditions of policies issued by TNE shall continue for a period of 30 days from the date of entry of this Order, pursuant to RSA 402-C:22 I;

5. The Court hereby adopts and approves the recommendation of the Liquidator that: (i) consistent with the priorities of distribution set forth in RSA 402-C:44, healthcare claims of TNE subscribers (including group contract holders) and providers for health care services rendered prior to December 20, 1999 shall be treated as policy-related claims entitled to second priority; (ii) claims incurred by TNE contracted healthcare providers for rendering medically necessary services to TNE subscribers between December 20, 1999 through February 2, 2000 shall be deemed costs of administration pursuant to RSA 402-C:44 and 402-C:45; and (iii) claims incurred after February 2, 2000 for medically necessary services rendered to TNE subscribers who are confined as inpatients in an acute care hospital, or skilled nursing or rehabilitation facility incidental to acute care hospitalization, beginning at any time during the period December 20, 1999 through February 2, 2000 and continuing after February 2, 2000 through the date of discharge from the facility shall be deemed costs of administration pursuant to RSA-402-C:44 and RSA 402-C:45, provided in the case of clauses (i), (ii), and (iii) above that: (a) such costs shall be treated as described above if and only to the extent that such services are rendered pursuant to the terms and conditions of the subscriber policies in full force and effect at and as of the time such services are rendered; (b) the amount of cost allowable for each such claim shall be not greater than the amount allowable under the terms of the respective network provider agreements in effect on November 22, 1999 ; and, (c) the TNE subscriber shall not have secured replacement health insurance coverage for the claim. The Court finds that the circumstances surrounding the attempted rehabilitation and liquidation of TNE justifies the treatment of the foregoing claims as recommended by the Liquidator in order to preserve the integrity of the provider network servicing TNE's subscribers during the foregoing period;

6. The Liquidator shall file financial reports within one year and at least annually thereafter during the pendency of this proceeding, pursuant to RSA 402-C:21 V;

7. The officers, directors, shareholders, agents, representatives and employees of TNE, and any persons acting in concert or privity with TNE, are prohibited from disposing, using, transferring, removing or concealing any property of TNE, without the express written permission of the Liquidator or her designees, and such persons shall cooperate with the Liquidator and her designees in the administration of TNE's estate;

8. Any bank, savings and loan association or other financial institution or other legal entity is prohibited from disposing of, allowing to be withdrawn or concealing in any manner any property or assets of TNE, except under the express written authorization of the Liquidator or her designees or upon further order of this Court;

9. Pending the resolution of the TNE liquidation proceeding, any and all of the following actions, are hereby enjoined:

- (a) the transaction of further business by TNE, other than the payment of claims and expenses as approved by the Liquidator or her designees, or upon further order of this Court;
- (b) the transfer of TNE's property without the express written authorization of the Liquidator or her designees, or upon further order of this Court;
- (c) the interference with the Liquidator or with these proceedings;
- (d) the waste of TNE's assets;
- (e) the dissipation and transfer of TNE's bank and securities accounts, without the express written authorization of the Liquidator or her designees or upon further order of this Court;
- (f) the institution or further prosecution of any actions or proceedings, or the obtaining or enforcement of any judgments, against TNE or any person or entity whom the Liquidator is empowered to pursue under RSA 402-C:25 XIII and XVIII , except as part of this liquidation proceeding;
- (g) the obtaining of any preferences, attachments, garnishments against TNE or its assets, (or assets of its parents and affiliates insofar as such preferences, attachments, and garnishments arise directly or indirectly out of claims against TNE) except upon further order of this Court;
- (h) the creation, perfection or enforcement of any liens against TNE or its assets, (or assets of its parent and affiliates insofar as such liens arise directly or indirectly out of claims against TNE) except upon further order of this Court;
- (i) the levying of any execution against TNE or its assets, (or assets of its parent and affiliates insofar as such execution arises out of claims against TNE) except upon further order of this Court;
- (j) the making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of TNE's assets;
- (k) the withholding from the Liquidator of books, accounts, documents or other records directly or indirectly relating to TNE's business;
- (l) the set-off of any debt owing to TNE that arose before the commencement of the TNE rehabilitation proceeding on November 22, 1999 against any claim of TNE, except as allowed by RSA 402-C: 34; or

- (m) any other threatened or contemplated action that might lessen the value of the TNE's assets or prejudice the rights of policyholders, subscribers or creditors or the administration of this proceeding.
10. (a) Bath Iron Works Corporation, a Maine corporation ("BIW") has asserted certain claims and causes of action against certain entities related to TNE, in a lawsuit currently pending in the United States District Court for the District of Maine (Civil Action No. CV-99-365-P-H)(the "Maine Proceeding"). The Liquidator asserts that she is the sole and exclusive party who may prosecute the claims asserted in the Maine Proceeding. BIW disagrees with this position. The Liquidator shall elect, on or before March 31, 2000, whether she shall commence an action in this liquidation proceeding asserting the "related party liability" claims asserted by BIW in the Maine Proceeding. Pending such commencement, and to the extent permitted by the Court presiding over the Maine Proceeding, BIW shall be entitled to continue to prosecute the Maine Proceeding notwithstanding the other provisions of this Order, without prejudice to the Liquidator's assertion that the Liquidator has the sole and exclusive right to prosecute the claims set forth in the Maine Proceeding, and without prejudice to BIW's assertion that this Order does not prevent it from continuing to prosecute the Maine Proceeding. The Liquidator has consented to the foregoing provisions in reliance upon BIW's representations to and agreement with the Liquidator that it shall not commence any litigation or other proceedings in any other jurisdiction or forum against any person or entity in connection with the claims asserted in the Maine Proceeding until the earlier of March 31, 2000 or the date on which the Liquidator commences an action asserting "related party liability" claims substantially similar to those asserted by BIW in the Maine Proceeding.
- (b) Nothing in this Order or the Liquidator's consent to the provisions of this paragraph shall operate to prejudice the Liquidator in any way from commencing a proceeding in this or any other Court at such time as she shall deem appropriate, asserting some or all of the claims pending in the Maine Proceeding; from avoiding under applicable law any transfers made to BIW in connection with the claims asserted in the Maine Proceeding; or (at such time as the Liquidator commences an action asserting the "related party liability" claims) from moving to stay or otherwise enjoin BIW from any further proceedings or actions in or relating to the Maine Proceeding; nor shall BIW be precluded from raising any and all objections thereto that it may have.
- (c) In the event that the Liquidator shall not elect to prosecute the "related party liability" claims asserted in the Maine Proceeding by March 31, 2000, BIW shall be free to continue to pursue those claims in Maine or any other jurisdiction as it may see fit.

Dated: January 3, 2000

By: /s/ George L. Manias  
Presiding Justice